

**UNITED STATES COPYRIGHT ROYALTY JUDGES**  
**The Library of Congress**

*In re*

**DETERMINATION OF ROYALTY RATES AND  
TERMS FOR MAKING AND DISTRIBUTING  
PHONORECORDS (Phonorecords IV)**

**Docket No. 21-CRB-0001-PR  
(2023-2027)**

**ORDER DENYING MOTION FOR SUSPENSION OF VOLUNTARY NEGOTIATION  
PERIOD AND SUBSEQUENT CASE EVENTS AND DEADLINES**

On May 6, 2021, Google LLC, Spotify USA Inc., Pandora Media, LLC, the National Music Publishers' Association, Nashville Songwriters Association International, and George Johnson (Joint Movants), filed with the Copyright Royalty Judges (Judges) an expedited motion for a suspension of the Voluntary Negotiation Period (VNP) and subsequent case events and deadlines in the *Phonorecords IV* proceeding ([Motion](#)). Amazon.com Services LLC (Amazon) filed its Opposition to the Motion for Suspension of the Voluntary Negotiation Period and Subsequent Case Events and Deadlines ([Opposition](#)) on May 11, 2021. Joint Movants filed a Reply in Further Support of the Joint Motion ([Reply](#)) on May 12, 2021.

Joint Movants request that the VNP be suspended to allow the parties to receive and consider the Judges' Initial Determination in the *Phonorecords III* remand proceeding (Remand Determination). They request that the VNP remain suspended until the day following the issuance of the Remand Determination, that the remaining time in the VNP resume immediately following the issuance of the Remand Determination, that the deadline to file Written Direct Statements be continued to a date 150 days after the end of the VNP, and that subsequent case events and deadlines be similarly continued by 150 days. Joint Movants note that the VNP expires on May 13, and additionally request that if the Judges find that resolution of this motion will require deliberation beyond this date, that the Judges suspend the VNP on an interim basis pending resolution of the Motion.

Joint Movants assert that the Judges have statutory authority to grant the requested suspension and that good cause exists to do so. They offer that the suspension would promote productive settlement discussions and substantially increase efficiency in the litigation of the *Phonorecords IV* proceeding. Joint Movants suggest that it may be prejudicial for this Proceeding to move ahead towards direct statement, rebuttal and hearing phases without the participants knowing the results of the Remand Determination and thus the final rates and terms in effect prior to those to be set in this Proceeding. They also offer that the requested suspension would not prejudice the orderly flow, outcomes or effective date of the royalty determination or payments in this Proceeding. Joint Movants, in their Reply, take issue with Amazon for failure to respond meaningfully to concerns that continuing with this Proceeding in parallel with the Remand Determination will result in inescapable inefficiencies and potential prejudice.

Amazon maintains that the Copyright Act does not permit the requested delay. Amazon also takes issue with the open-ended nature of the requested suspension. It expresses concern that the requested delays will result in retroactive rate-setting and impose negative effects on licensees' business certainty. It adds that the requested suspension will increase litigation costs, by compelling interruption of their case preparation. Amazon indicates that the negative consequences of the proposed suspension outweigh whatever benefit may be gained. It allows that certain concerns expressed by the Joint Movants may warrant supplemental filings, but maintains that such concerns do not justify the requested suspension of this Proceeding.

The Judges find that the parties identify certain reasonable concerns that may arise in the course of parallel proceedings, as well as valid concerns that may arise as a result of granting the requested suspension. Having reviewed the Joint Motion, Opposition and Reply, the Judges find that upon consideration of the offered arguments, as well as the Judges' overall statutory scheduling obligations, insufficient good cause exists to grant the Motion. The Judges believe that the impact, if any, of the *Phonorecords III* remand proceedings on the scheduling in this proceeding would be better addressed by the parties as that proceeding moves forward.<sup>1</sup>

Consequently, the Motion is **DENIED**.<sup>2</sup>

**SO ORDERED.**

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Jesse M. Feder  
Chief Copyright Royalty Judge

Dated: May 13, 2021

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<sup>1</sup> Accordingly, the Judges issue this Order without prejudice to any future motion by any party seeking an extension of deadlines that now exist, or to otherwise supplement the schedule of this Proceeding.

<sup>2</sup> Having found insufficient good cause to grant the Motion, the Judges conclude that the issue of whether they have the statutory authority to grant the requested suspension is moot.